

TIMOTHY S. THIMESCH, Esq. (No. 148213)
THIMESCH LAW OFFICES
158 Hilltop Crescent
Walnut Creek, CA 94597-3452
Tel: 925/588-0401
Fax: 888/210-8868
tim@thimeschlaw.com

LAW OFFICES OF GENE A. FARBER
GENE A. FARBER, ESQ. (No. 44215)
4258 Twenty Sixth Street
San Francisco, CA 94131
Telephone: (415) 956-1800
Fax: (415) 282-4228
genefarber@gmail.com

Attorneys for Plaintiff
CRAIG YATES

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

CRAIG YATES,

Plaintiffs,

v.

CITY AND COUNTY OF SAN
FRANCISCO; CITY OF SAN FRANCISCO
UPTOWN PARKING CORPORATION; and
DOES 1-50, Inclusive,

Defendants.

CASE NO. C07-04087 JSW
Civil Rights

**[Proposed] ORDER DENYING
DEFENDANTS' MOTION TO DISMISS
AND MOTION TO STRIKE**

Hearing:

Date: February 8, 2008
Time: 9:00 AM
Place: Courtroom 2, 17th Fl
Judge: Hon. Jeffrey S. White

The Court having considered the timing of defendants' Motion to Dismiss and Strike Portions of the Complaint, and noting that defendants failed to obtain leave to file the motion, which they delayed the filing of until nearly four months after initial service of the complaint,

The Court strikes the motion from the calendar as untimely. Defendants shall file an

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1 Answer within 10 days of this order.

2 SO ORDERED.

3 Dated: _____

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HON. JEFFREY S. WHITE
JUDGE OF U.S. DISTRICT COURT

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Certificate or Proof of Service by Mail, Fax or Personal Delivery

I, the undersigned, say: I am and was at all times herein mentioned, a citizen of the United States and a resident of the County of Contra Costa, over the age of eighteen (18) years and not a party to the within action or proceeding; that my business address is Thimesch Law Offices, 158 Hilltop Crescent, Walnut Creek, California; that on the below date, following normal business practice, I caused to be served the foregoing document(s) described as:

[Proposed] ORDER DENYING DEFENDANTS' MOTION TO DISMISS AND MOTION TO STRIKE

(Yates v. Union Square, et al., Northern District Case No. C07-04087 JSW)

on the interested parties in this action, by taking a true copy thereof and conveying as follows:

AS INDICATED:

☐ **See Attached Service List.**

☐ **Personal Delivery:** By personally delivering, or causing to be hand delivered through a fax-filing or messenger agency, true and exact copies of these documents to the above entitled place of business (or as indicated on the attached service list) with directions to deliver them immediately to See Above attorneys for the Defendants.

☒ **Courtesy Email:** By email transmission with attachments enclosed in PDF and with a request for delivery and read receipts.

(☐ **Without exhibits, which are to follow by mail;** ☐ **With exhibits;** ☒ **N/A):**

☐ **Facsimile:** By facsimile transmission, from our regular facsimile machine at (888) 210-8868, at approximately , or soon thereafter, addressed to the following facsimile machine (☐ **Without exhibits, which are to follow by mail;** ☐ **With exhibits;** ☒ **N/A):**

Name of Person Served: See Above

Facsimile Telephone No: See Above

A facsimile machine report was printed immediately thereafter, which verified that the transmission was complete and without error.

☒ **U.S. Mail and/or Overnight:** By depositing true copies thereof, enclosed in a sealed envelope(s) with postage thereon fully prepaid, marked with the above address(es), and placed in:
☒ in First Class United States Mail
☐ in ☐ priority, or ☐ standard, overnight mail via Federal Express,
 I am readily familiar with our office's practice for collection and processing of correspondence for mailing with the United States Postal Service. In the ordinary course of business, correspondence, including said envelope, will be deposited with the United States Postal Service at Walnut Creek, and designated overnight packages will be timely scheduled for pickup or placed in Federal Express drop boxes or left at drop centers.

I declare that I am employed in the office of a member of the bar of this court at whose direction the service was made, and that the foregoing is true and correct under penalty of perjury pursuant to the laws of the United States and the state of California. Executed this **January 18, 2008**, in Walnut Creek, California.

By:



TIMOTHY S. THIMESCH
(Original signed)

SERVICE LIST

JEFFER, MANGELS, BUTLER & MARMARO LLP
MARTIN H. ORLICK, ESQ.
Two Embarcadero Center, 5th Floor
San Francisco, CA 94111
Telephone: 415/398-8080
Facsimile: 415/398-5584
mho@jmbm.com

JAMES M. EMERY, ESQ.
ELAINE O'NEIL, ESQ.
OFFICE OF THE CITY ATTORNEY
Fox Plaza
1390 Market Street, Sixth Floor
San Francisco, CA 94102-5408
Telephone: (415) 554-4261
Facsimile: (415) 554-3837
jim.emery@sfgov.org